IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY THE NINTH DAY OF AUGUST
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO.21033 of 2001

Between:
Chand Pasha and 2 others

.....
PETITIONERS

AND
Gram Panchayath, Makthal,
Mahabubnagar District, rep.by its
Executive Officer

.....RESPONDENT

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No.21033 of 2001

ORDER:

This writ petition is filed by the petitioner, aggrieved by the action of the respondent-Gram Panchayat in cancelling the permission that was granted in favour of the petitioners for the construction of the mulgies in the land in Sy.No.35, situated besides Inspection Bungalow, Rayachur Road, Makthal Gram Panchayat and Mandal, Mahabubnagar.

It is stated that the petitioners have purchased each 36.66 sq.yards of land in the above referred survey number from the original owner Sri Hanumanthu, S/o.Hanmanthu in the year 1995 under three different sale deeds, and thereafter, made applications, seeking permission of the Gram Panchayat for approval of the plans for the construction of the mulgies. As no action was taken by the Gram Panchayat, all the three petitioners have filed three separate writ petitions viz. W.P.Nos.11082, 11081 and 10934 of 2001 which are disposed of by this Court on 08.06.2001 and 07.06.2001 respectively, with a direction to the Gram Panchayat to pass orders within 15 days on the applications of the petitioners. Thereafter, the permission sought for was granted by resolution passed by the Gram Panchayat dated 28.05.2001. Pursuant to which, constructions were started. But, however, as there was change in the elected body of the Gram

Panchayat, without even issuing notice to the petitioners, the impugned resolution was passed, cancelling the earlier resolution, approving the plans submitted by the petitioners for the construction of the mulgies. Hence, the petitioners have filed the present writ petition.

It is stated that the impugned resolution was suspended on 09.10.2001 by this Court. In spite of service of notice on the other side, the respondent-Gram Panchayat did not choose to file any counter, disputing or denying the claim of the petitioners. In view of that, the learned counsel for the petitions sought to set aside the impugned resolution of the respondent-Gram Panchayat.

In the affidavit filed by the petitioners, it was also stated that the vendor of the petitioners has even filed a civil suit, seeking declaration of his title to the suit schedule property, which was an extent of 0.36 guntas situated in Sy.No.35 of Makthal village, in O.S.43/1990, on the file of the District Munsif's Court, Narayanpet. The said suit was decreed on 08.11.1990. Therefore, it is claimed that since the petitioners have purchased the disputed property from the original owner, who is the plaintiff in O.S.43/1990, whose title to the property was even declared by the Civil Court, the respondent-Gram Panchayat cannot cancel the earlier resolution, approving the permission for the construction of the mulgies, without even issuing notice. The impugned action of the respondent is also violative of the principles of natural justice, as no notice was issued prior to the impugned resolution, therefore, sought for setting aside the impugned resolution.

Heard the learned counsel for the petitioners and considered the material on record.

In view of the above contentions, for which there was no dispute or denial by the respondent-Gram Panchayat, hence, the impugned resolution of the respondent-Gram Panchayat is set aside.

The Writ Petition is, accordingly, allowed. No order as to costs.

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S.ANANDA REDDY,J

Dated: 09.08.2007
Dsr